

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:

Confirmation No. 3748

Kenneth W. Shirriff et al.

Group Art Unit No.: 2141

Serial No.: 10/663,474

Examiner: Gillis, Brian J.

Filed: September 15, 2003

For: METHOD AND SYSTEM FOR EVENT NOTIFICATION

Via EFS-Web
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NON-COMPLIANT APPEAL BRIEF

Dear Madam:

This response is submitted in support of the Notice of Appeal filed on February 29, 2008, and in response to the Notification of Non-Compliant Appeal Brief mailed on April 3, 2009. In particular, the Grounds of Rejection to be Reviewed on Appeal section and the Argument section are hereby resubmitted.

Applicant believes this response is fully addresses all outstanding issues in the Notification of Non-Compliant Appeal Brief. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 03227/448001).

Dated: June 3, 2009

Respectfully submitted,

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Attachment (Replacement Sections)

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 45-49, 52-57 and 60 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. Pub 2004/0019736 (“Chen”).

2. Claims 1, 2, 6-7, 11-13, 17-20, 22-23 and 25-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,748,884 (“Royce”) in view of Chen.

3. Claims 3-5, 8-10 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Royce in view of Chen, and further in view of U.S. Pat. Pub. 2003/0037136 (“Labovitz”).

4. Claims 14-16 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Royce in view of Chen, and further in view of U.S. Patent 6,823,359 (“Heidingsfeld”).

5. Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Royce in view of Chen, and further in view of U.S. Pat. Pub. 2004/0111507 (“Villado”).

6. Claims 50-51 and 58-59 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of Heidingsfeld.

VII. ARGUMENT**A. Introduction**

Although the claims in this application stand rejected with regard to a variety of references cited in the Office action, the failure of the rejections to establish a *prima facie* basis can be traced back to the Office action’s faulty reliance on Chen. As shown below,

Chen fails to teach or suggest all features of Appellants' claimed invention. Additionally, the Office action misapplies Chen in the rejections of all Appellants' independent claims, and takes contradictory positions within the same claim rejection regarding what Chen teaches.

The discussion regarding both the disclosure of Chen and the faults of the current rejections are made below with respect to Claims 45 and 53.

B. The Examiner Improperly Rejected Claims 45-49, 52-47 and 60 Under 35

U.S.C. § 102(e) Based Upon Chen

Claims 45-49, 52-47 and 60

Claim 45 is directed to a machine-implemented method, Claim 53 is directed to the corresponding apparatus. Although summarized above and provided in the appendix, Claim 45 is reproduced for the convenience of the Board and the Examiner. Claim 45 recites the following (emphasis added):

A machine-implemented method, comprising:
obtaining, from a server, a set of status information pertaining to one or more components;
rendering a display to show the status information for the one or more components;
accessing an event buffer, wherein the event buffer stores one or more events pertaining to the one or more components;
determining whether the event buffer contains any newly added events that require the display to be updated;
in response to a determination that the event buffer contains one or more newly added events that require the display to be updated, obtaining from the server a set of updated status information pertaining to the one or more components; and
rendering an updated display to show the updated status information for the one or more components.

Claim 45 provides an advantageous method for determining when to consult a server to obtain updated status information pertaining to one or more components. With the method of claim 45, it is possible to consult the server only when updated status information is available. By doing so, network traffic is kept to a minimum, and server resources are used more efficiently (i.e. the server is not invoked when no updated status information is available).

According to the method of claim 45, a set of status information pertaining to one or more components is obtained from a server. This set of status information is rendered in a display. The method thereafter accesses an event buffer, wherein the event buffer stores one or more events pertaining to the one or more components. A determination is made as to whether the event buffer contains any newly added events that require the display to be updated. In response to a determination that the event buffer does contain one or more newly added events that require the display to be updated, a set of updated status information pertaining to the one or more components is obtained from the server. An updated display is then rendered to show the updated status information for the one or more components. By obtaining the updated status information from the server in response to a determination that the event buffer contains one or more newly added events that require the display to be updated, the method of claim 45 consults the server when it is known that updated status information for the one or more components is available. By doing so, the method of claim 45 keeps network traffic to a minimum, and uses the server resources more efficiently. Such a method is neither disclosed nor suggested by Chen.

The Disclosure of Chen

In contrast, Chen discloses a method for displaying events of a network device. In Chen, a network device 6 (Fig. 1 of Chen) is coupled to an administrative workstation 2 via a connection 4. The network device 6 has an event managing module 66 and a storage 68, and the administrative workstation 2 has an event obtaining module 24 and a database 28. In operation, the event managing module 66 detects events on the network device 6. When an event is detected, the event managing module 66 determines whether the event needs to be displayed (see paragraph 0022 of Chen). If the event needs to be displayed, then the event managing module 66 stores information pertaining to the event into the storage 68 (see paragraph 0022).

Periodically, the event obtaining module 24 of the administrative workstation 2 accesses the storage 68 on the network device 6 (see paragraph 0021), and obtains information pertaining to a detected event (see paragraph 0022). The administrative workstation 2 stores this event information into the database 28, and displays the event information on an event information page (see paragraph 0022). By doing so, the administrative workstation 2 is able to detect and display events pertaining to the network device 6.

The Claimed Features Missing from Chen

Several points should be noted with regard to Chen. First of all, it should be noted that, unlike Claim 45, Chen makes absolutely no mention of a server from which status information pertaining to one or more components may be obtained. The storage 68 of Chen may be interpreted as the event buffer of Claim 45 since storage 68 does contain information pertaining to events; however, there is nothing in Chen that can reasonably be interpreted as the server recited in Claim 45 from which status information

pertaining to the one or more components may be obtained.

Another point to note is that, unlike Claim 45, Chen neither discloses nor suggests obtaining a set of updated status information pertaining to the one or more components from a server in response to a determination that the event buffer contains one or more newly added events. In Chen, when the administrative workstation 2 detects event information in the storage 68, it simply takes that event information and displays it in an event information page. This is made perfectly clear at the end of paragraphs 0010 and 0022 of Chen. Unlike Claim 45, the administrative workstation 2 of Chen does not, in response to a determination that the storage 68 contains one or more newly added events, obtain from a server a set of updated status information pertaining to the network device 6. In Chen, it is the event information that is displayed by the administrative workstation 2. Since this event information is already obtained from storage 68, there is no need for the administrative workstation 2 to consult any other component to obtain any other set of information. Thus, in sharp contrast to Claim 45, the administrative workstation 2 of Chen does not obtain updated status information from a server, nor does it render this updated status information in a display.

The Errors in the Rejections Based on Chen

Figure 1 of Chen illustrates the embodiment of the system corresponding to the paragraphs of Chen cited in the Office action. Although Fig. 1 only illustrates one network device 6, the system in Chen includes a plurality of network devices. The server could be located either in administrative workstation 2 or (one) network device 6.

In the rejection of different limitations of Claim 45, the Office Action interprets the “server” to reside in different locations of the system disclosed in Figure 1 of Chen. First, in

the analysis of the feature of “obtaining, from a server, . . .,” the Office action states that “Chen et al shows a server obtains event information (paragraph 21).” In paragraph 0021, only administrative workstation 2 appears to obtain event information through its event obtaining module 24; thus it appears the Office action correlates Appellants’ claimed server to administrative workstation 2.

Later, in the analysis of the feature “in response to a determination that . . .,” the Office action now appears to locate the mythical server in Chen at network device 6. The Office action’s entire correlation of this claimed feature consists of the following sentence: “Chen et al shows the event is obtained from the server and displayed by the administrative workstation (paragraph 22).” Now the Office action appears to indicate the mythical server of Chen is separate and distinct from administrative workstation 2. Thus it could only reside on network device 6. In a rejection of a single claim, the Office action has interpreted the server to reside both on administrative workstation 2 and network device 6. The logic used in the rejection is self-contradictory.

Appellants respectfully submit that the reasoning of Office action is fundamentally in error, as the Office action takes contradictory positions regarding the location of the “server” in Chen.

Prayer for Relief for Claims 45-49, 52-57 and 60

As (1) Chen lacks elements of Appellants’ claimed method, (2) the Office action fails to provide a logical correlation between the disclosure of Chen and Appellants’ claimed method, and (3) the system of Chen suffers some of the very deficiencies that Appellants’

claimed method solves, Appellants submit the final Office action has failed to establish a *prima facie* basis upon which to reject independent method Claim 45, corresponding independent apparatus Claim 53, and dependent Claims 46-49, 52, 54-57, and 60.

Therefore, Appellants respectfully request that the Honorable Board reverse the rejections of Claims 45-49, 52-57 and 60.

C. The Examiner Improperly Rejected Claims 1, 2, 6-7, 11-13, 17-20, 22-23 and 25-26 Under U.S.C. § 103(a) Based Upon the Combination of Royce and Chen

Claims 1, 2, 6-7, 11-13, and 17

Independent Claim 1 is directed to a system for event notification. Although summarized above and provided in the appendix, Claim 1 is reproduced for the convenience of the Board and the Examiner. Claim 1 recites the following (emphasis added):

A system for event notification, comprising:
an event buffer;
a first node, the first node detecting a situation of interest on the first node and generating a first event in response thereto, the first node sending information pertaining to the first event to the event buffer to be stored therein; and
a remote computing system, the remote computing system displaying a first set of status information for the first node that was previously obtained from a server, the remote computing system polling the event buffer for new events and in response to detecting the first event, the remote computing system interacting again with the server to obtain therefrom a set of updated status information for the first node, the remote computing system thereafter displaying the updated status information.

The final Office action admits that Royce fails to teach "a remote computing system...the remote computing system polling the event buffer for new events and in response to detecting the first event, the remote computing system interacting again with the server to obtain therefrom a set of updated status information for the first node, the

remote computing system thereafter displaying the updated status information" (Emphasis added). The Office action attempts to compensate for Royce's shortcomings by citing Chen. However, Appellants respectfully submit that Chen also fails to disclose or suggest the remote computing system of Claim 1.

As argued above in connection with Claim 45, the administrative workstation 2 of Chen (which the examiner is interpreting to be the remote computing system of Claim 1) does not interact with a server in response to detecting an event in the storage 68 of the network device 6 (see Fig. 1 of Chen). Rather, when the administrative workstation 2 detects an event in the storage 68, it simply takes that event information and displays it in an event information page (see paragraphs 0010 and 0022 of Chen).

As noted above, it is the event information itself, not any updated status information pertaining to the network device 6, that is displayed by the administrative workstation 2. Since the administrative workstation 2 does not interact with a server to obtain a set of updated status information for the network device 6, it should come as no surprise that the administrative workstation 2 also does not display any such updated status information. For at least the above reasons, Appellants submit that Chen does not disclose or suggest the remote computing system of Claim 1.

Since neither reference teaches or suggests at least the remote computing system of Claim 1, even if the references were combined (assuming for the sake of argument that it would have been obvious to combine the references), the combination still would not yield the system of Claim 1.

Claims 18-20, 22-23 and 25-26

Claim 18 is directed to a network for event notification. Although summarized above and provided in the appendix, Claim 18 is reproduced for the convenience of the Board and the Examiner. Claim 18 recites the following (emphasis added):

A network for event notification, comprising:
an event forwarding mechanism in each node of a cluster for forwarding detected events to each other node;
an event buffer of said cluster to receive and store each event forwarded from a node from an event forwarding mechanism; and
a remote event monitor for periodically polling said event buffer for changes in pertinent events, and in response to detecting one or more new pertinent events, the remote event monitor causing updated status information pertaining to one or more nodes in said cluster to be obtained from a server and causing the updated status information to be displayed.

The final Office action admits that Royce fails to teach “a remote event monitor for periodically polling said event buffer for changes in pertinent events, and in response to detecting one or more new pertinent events, the remote event monitor causing updated status information pertaining to one or more nodes in said cluster to be obtained from a server and causing the updated status information to be displayed” (Emphasis added).

The Office action then attempts to compensate for Royce's shortcomings by citing Chen. However, Appellants respectfully submit that Chen also fails to disclose or suggest the remote event monitor of Claim 18.

In contrast to the remote event monitor of Claim 18, the administrative workstation 2 of Chen (which the examiner is interpreting to be the remote event monitor of Claim 18) does not, in response to detecting one or more new pertinent events, cause updated status information pertaining to one or more nodes to be obtained from a server. Rather, when the administrative workstation 2 detects an event in the storage 68, it simply

takes that event information and displays it in an event information page (see paragraphs 0010 and 0022 of Chen). There is absolutely no mention of the administrative workstation 2 causing updated status information pertaining to one or more nodes to be obtained from a server in response to detecting one or more new pertinent events.

Furthermore, there is no mention of the administrative workstation 2 displaying updated status information. As noted above, it is the event information itself, not any updated status information pertaining to one or more nodes, that is displayed by the administrative workstation 2. Since the administrative workstation 2 does not interact with a server to obtain updated status information, it should come as no surprise that the administrative workstation 2 also does not display any such updated status information. For at least the above reasons, Appellants submit that Chen does not disclose or suggest the remote event monitor of Claim 18.

Since neither reference teaches or suggests at least the remote event monitor of Claim 18, even if the references were combined (assuming for the sake of argument that it would have been obvious to combine the references), the combination still would not yield the network of Claim 18.

Conclusion for Relief for Claims 1, 2, 6-7, 11-13, 17-20, 22-23 and 25

Appellants respectfully submit that the Office action fails to establish a *prima facie* case of obviousness for Claim 1 or Claim 18, or dependent Claims 7, 11-13, 17, 19-20, 22-23, and 25. Therefore, Appellants respectfully request that the Honorable Board reverse the rejections of Claims 1, 2, 6-7, 11-13, 17-20, 22-23 and 25.

D. The Examiner Improperly Rejected Claims 3-5, 8-10 and 21 Under 35 U.S.C.**§ 103(a) Based Upon the Combination of Royce, Chen and Labovitz****Claims 3-5 and 8-10**

Claims 3-5 and 8-10 depend from independent Claim 1. As previously argued, Royce and Chen fail to teach or suggest at least the remote computing system of Claim 1. This same aspect of Claim 1 is also not taught or suggested by Labovitz. Therefore, even if the references were combined (assuming for the sake of argument that it would have been obvious to combine the references), the combination still would not yield the system of Claim 1. Thus, for at least this reason, the combination fails to establish a prima facie case of obviousness for dependent Claims 3-5 and 8-10.

Claim 21

Claim 21 depends from independent Claim 18. As previously argued, Royce and Chen fail to teach or suggest at least the remote event monitor of Claim 18. This same aspect of Claim 18 is also not taught or suggested by Labovitz. Therefore, even if the references were combined (assuming for the sake of argument that it would have been obvious to combine the references), the combination still would not yield the network of Claim 18. Thus, for at least this reason, the combination fails to establish a prima facie case of obviousness for dependent Claim 21.

Prayer for Relief for Claims 3-5, 8-10 and 21

Appellants respectfully submit that the Office action fails to establish a prima facie case of obviousness for Claims 3-5, 8-10 and 21. Therefore, Appellants respectfully request that the Honorable Board reverse the rejections of Claims 3-5, 8-10 and 21.

E. The Examiner Improperly Rejected Claims 14-16 and 26 Under 35 U.S.C. § 103(a) Based Upon the Combination of Royce, Chen and Heidingsfeld

Claims 14-16

Claims 14-16 depend from independent Claim 1. As previously argued, Royce and Chen fail to teach or suggest at least the remote computing system of Claim 1. This same aspect of Claim 1 is also not taught or suggested by Heidingsfeld. Therefore, even if the references were combined (assuming for the sake of argument that it would have been obvious to combine the references), the combination still would not yield the system of Claim 1. Thus, for at least this reason, the combination fails to establish a prima facie case of obviousness for dependent Claims 14-16.

Claim 26

Claim 26 depends from independent Claim 18. As previously argued, Royce and Chen fail to teach or suggest at least the remote event monitor of Claim 18. This same aspect of Claim 18 is also not taught or suggested by Heidingsfeld. Therefore, even if the references were combined (assuming for the sake of argument that it would have been obvious to combine the references), the combination still would not yield the network of Claim 18. Thus, for at least this reason, the combination fails to establish a prima facie case of obviousness for dependent Claim 21.

Prayer for Relief for Claims 14-16 and 26

Appellants respectfully submit that the Office action fails to establish a prima facie case of obviousness for Claims 14-16 and 26. Therefore, Appellants respectfully request that the Honorable Board reverse the rejections of Claims 14-16 and 26.

F. The Examiner Improperly Rejected Claim 24 Under 35 U.S.C. § 103(a) Based Upon the Combination for Royce, Chen and Villado

Claim 24

Claim 24 depends from independent Claim 18. As previously argued, Royce and Chen fail to teach or suggest at least the remote event monitor of Claim 18. This same aspect of Claim 18 is also not taught or suggested by Villado. Therefore, even if the references were combined (assuming for the sake of argument that it would have been obvious to combine the references), the combination still would not yield the network of Claim 18. Thus, for at least this reason, the combination fails to establish a prima facie case of obviousness for dependent Claim 24.

Prayer for Relief for Claim 24

Appellants respectfully submit that the Office action fails to establish a prima facie case of obviousness for Claim 24. Therefore, Appellants respectfully request that the Honorable Board reverse the rejections of Claim 24.

G. The Examiner Improperly Rejected Claims 50-51 and 58-59 Under 35 U.S.C. § 103(a) Based Upon the Combination of Chen and Heidingsfeld

Claims 50-51

Claims 50-51 depend from independent Claim 45. As previously argued, Chen fails to teach or suggest at least one aspect of Claim 45. This same aspect of Claim 45 is also not taught or suggested by Heidingsfeld. Therefore, even if the references were combined (assuming for the sake of argument that it would have been obvious to combine the references), the combination still would not yield the method of Claim 45. Thus, for at least

this reason, the combination fails to establish a prima facie case of obviousness for dependent Claims 50-51.

Claims 58-59

Claims 58-59 depend from independent Claim 53. As previously argued, Chen fails to teach or suggest at least one aspect of Claim 53. This same aspect of Claim 53 is also not taught or suggested by Heidingsfeld. Therefore, even if the references were combined (assuming for the sake of argument that it would have been obvious to combine the references), the combination still would not yield the apparatus of Claim 53. Thus, for at least this reason, the combination fails to establish a prima facie case of obviousness for dependent Claims 58-59.

Prayer for Relief for Claims 50-51 and 58-59

Appellants respectfully submit that the Office action fails to establish prima facie case of obviousness for Claims 50-51 and 58-59. Therefore, Appellants respectfully request that the Honorable Board reverse the rejections of Claims 50-51 and 58-59.

H. Conclusion and Prayer for Relief

Based on the foregoing, it is respectfully submitted that the rejections of Claims 1-26 and 45-60 are improper and lack the requisite factual and legal bases. Therefore, Appellants respectfully request that the Honorable Board reverse the rejections of Claims 1-26 and 45-60.